

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

ANGEL RIVERA,

Plaintiff,

v.

TRENTON STATE PRISON,

Defendant.

Civil Action No. 21-17069 (MAS) (LHG)

MEMORANDUM ORDER


This matter comes before the Court on Plaintiff's Motion (ECF No. 4) seeking to compel discovery in this closed civil rights matter. By way of background, Plaintiff filed his complaint in this matter in September 2021. (ECF No. 1.) On November 16, 2021, this Court entered an order and opinion which dismissed Plaintiff's complaint against the sole named Defendant with prejudice as that Defendant, a state prison, was not subject to suit under 42 U.S.C. § 1983. (ECF Nos. 2-3.) Although this Court granted Plaintiff leave to file a new complaint naming other Defendants, he did not do so within the thirty days provided. (ECF Docket Sheet.)

Six months later, in May 2022, Plaintiff filed his current motion. (ECF No. 4.) In his motion, Plaintiff states that he did not receive this Court's screening order and opinion until January 2022, and that he received only a damaged copy, which did not appear to contain the dismissal of his complaint. (*Id.* at 1-2.) Plaintiff, who believes that his complaint is still active, requests in his motion to compel that New Jersey State Prison provide him with copies of various grievances and other forms of paperwork he believes relevant to his long-dismissed complaint. (*Id.* at 3-4.) Plaintiff's motion, however, provides no legal basis for permitting him to conduct discovery in a closed case.

Where a complaint is dismissed, it “is treated as if it never existed.” *Brennan v. Kulick*, 407 F.3d 603, 606 (3d Cir. 2005) (quoting *Cardio-Medical Assocs. v. Crozer-Chester Med. Ctr.*, 721 F.2d 68, 77 (3d Cir. 1983)). Because this Court dismissed Plaintiff’s complaint with prejudice as to the sole named Defendant in this matter, there is no complaint, and therefore there are no claims properly before this Court.¹ As such, there are no claims on which Plaintiff may base his request for discovery. Plaintiff’s motion is therefore denied.

IT IS THEREFORE on this 6th day of July, 2022, **ORDERED** that:

1. The Clerk of the Court shall re-open this matter for the purposes of this Order only;
2. Plaintiff’s motion seeking discovery (ECF No. 4) is **DENIED**;
3. The Clerk of the Court shall serve a copy of the November 16, 2021 Opinion and Order (ECF Nos. 2-3) upon Plaintiff by regular mail; and
4. The Clerk of the Court shall serve a copy of this Order upon Plaintiff by regular mail and shall **CLOSE** the file.



MICHAEL A. SHIPP
UNITED STATES DISTRICT JUDGE

¹ If Plaintiff desires to seek relief from the Court’s November 16, 2021 Order, he must file a motion pursuant to Federal Rule of Civil Procedure 60.